



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 29 2011

REPLY TO THE ATTENTION OF:  
LR-8J

**CERTIFIED MAIL 7009 1680 0000 7667 0234**  
**RETURN RECEIPT REQUESTED**

Mr. Rodney Muzzarelli  
Owner  
Mid-City Plating Company  
921 East Charles Street  
Muncie, Indiana 47305

Re: Notice of Intent to File Civil Administrative Complaint against Mid-City Plating Company, and Request for Information  
EPA ID No.: IND 006 049 456

Dear Mr. Muzzarelli:

The U. S. Environmental Protection Agency plans to file an administrative complaint for civil penalties against the Mid-City Plating Company ("Mid-City Plating" or "you"). We will allege that you violated the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 - 6992, as amended, as described in the enclosed Notice of Violation previously issued to you on March 11, 2011. RCRA provides a cradle-to-grave framework to ensure proper management of hazardous wastes which, if handled in an unsafe manner, could present risks to humans and the environment. In addition, this letter informs you that EPA deems Mid-City Plating to be a Significant Non-Complier under RCRA.

On June 22, 2010 a representative of the EPA inspected Mid-City Plating. The purpose of the inspection was to evaluate Mid-City Plating's compliance with certain provisions of RCRA; specifically, those regulations which were the subject of the March 11, 2010 Notice of Violation.

Based on information currently available to us, we plan to propose a penalty of \$283,525 in the complaint. This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty.

If you believe that you will be unable to pay a \$283,525 penalty because of financial reasons, please send us certified, complete financial statements; including balance sheets, income

statements and all notes to the financial statements, along with your company's signed income tax returns with all schedules and amendments, for the past three years.

If you want to confer with us, you should contact Jamie L. Paulin, (312) 886-1771, of the RCRA Branch, in writing or via telephone, within ten (10) calendar days after you receive this letter.

Please send any written response to:

Jamie L. Paulin  
Chemist (LR-8J)  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Please be advised that this conference is not a settlement negotiation covered by Federal Rule of Evidence 408; we may use any information you submit in support of an administrative, civil or criminal action. After the conference (or after you have submitted a written reply), we may give you the opportunity to engage in settlement negotiations before we file the complaint.

If pre-filing settlement negotiations commence and are successful, a settlement agreement can be filed under EPA regulations at 40 C.F.R. § 22.13(b).

If you do not respond to this letter, EPA may file a complaint without further notice against Mid-City Plating as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

If you have any legal questions, please telephone Thomas J. Martin, Associate Regional Counsel, at (312) 886-4273.

Thank you for your prompt attention to this matter.

Sincerely,



Paul Little, Acting Chief  
RCRA Branch  
Land and Chemicals Division

Enclosure

cc: Nancy Johnston, Indiana Department of Environmental Management  
([njohnsto@idem.in.gov](mailto:njohnsto@idem.in.gov))



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 11 2010

REPLY TO THE ATTENTION OF:

LR-8J

**CERTIFIED MAIL 7009 1680 0000 7667 0425**  
**RETURN RECEIPT REQUESTED**

Marc Muzzarelli  
Production Manager  
Mid-City Plating Company  
921 East Charles Street  
Muncie, Indiana 47305

Re: Notice of Violation  
RCRA Compliance Evaluation Inspection – Mid-City Plating Company  
EPA I.D. No.: IND 006 049 456

Dear Mr. Muzzarelli:

On June 22, 2010, a representative of the U.S. Environmental Protection Agency inspected the Mid-City Plating Company (Mid-City Plating) facility in Muncie, Indiana. The purpose of the inspection was to evaluate Mid-City Plating's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA) related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed.

Based on information provided by Mid-City Plating personnel, a review of records, and personal observations made by the inspector at the time of the investigation, EPA has determined that Mid-City Plating is in violation of hazardous waste regulations in the Indiana Administrative Code (IAC) and corresponding provisions in the United States Code of Federal Regulations (C.F.R.), as specified below.

To be eligible for the exemption from having a hazardous waste storage permit, Mid-City Plating must be in compliance with the conditions of 329 IAC § 3.1-7-1 [40 CFR § 262.34(a) and (c)]. Based on the information currently available to us, we find that Mid-City Plating failed to comply with the following conditions for a hazardous waste storage permit exemption, and violated the following requirements:

1. A person who generates a solid waste, as defined in 329 IAC § 3.1-7-1 [40 CFR § 261.2], must determine if that waste is a hazardous waste by using specific methods. *See*, 329 IAC § 3.1-7-1 [40 CFR § 262.11].

At the time of the inspection, Mid-City Plating was storing material in several open containers, in containment pits, and on the floors throughout the facility, and could not

identify the hazards or contents of the materials. The locations and types of containers were: 1) one open 5-gallon bucket located on a trench near the E-coat line, containing an un-identified liquid; 2) four open 5-gallon buckets located on the floor near the E-coat line, containing an un-identified liquid; 3) one open 5-gallon bucket located on a pallet near the raw material storage area, containing an un-identified liquid; 4) a grated pit located near the WWTU waste water storage totes, containing a 4-inch thick un-identified solid material; 5) one orange plastic pallet located near the WWTU waste water storage totes, containing an un-identified liquid; 6) one plastic bath located near the former Barrel Row line plating process, containing an un-identified liquid; 7) a containment pit located below the zinc plating line and on the floor, containing a solid material; and 8) the floor throughout the facility, containing unidentified liquids.

2. A generator of hazardous waste must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to Land Disposal Restrictions. *See*, 329 IAC § 3.1-12-1 [40 CFR § 268.7(a)(8)].

At the time of the inspection, Mid City Plating did not have, as a record on-site, a land disposal restriction (LDR) notification form for the shipments of hazardous waste, carrying the hazardous waste code of F008, to Michigan Disposal.

3. A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions. A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage or damage that could cause the release of mercury or other hazardous constituents to the environment. In addition, each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)." *See*, 329 IAC § 3.1-16-2 [40 CFR § 273.13(d)(1) and (d)(2), and 40 CFR § 273.14(e)].

At the time of the inspection, Mid-City Plating was storing broken and crushed fluorescent light bulbs on the floor of the facility, next to the former Barrel Row Plating Line, with no documentation demonstrating the length of time that the light bulbs were located on the floor.

4. A generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in containers, and the container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. *See*, 329 IAC §§ 3.1-7-1; 3.1-10-1 [40 C.F.R. § 262.34(a)(1)(i); 40 C.F.R. § 265.173(a)].

At the time of the inspection, Mid-City Plating failed to keep one 20-cubic yard roll-off container of F006 hazardous waste, located outside in the hazardous waste storage area, closed during storage, at a time when waste was not being added to or removed from the container.

5. A generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without obtaining a hazardous waste storage permit or achieving interim status, provided that the generator's waste is placed in tanks and the generator complies with the applicable requirements of Subpart J (tank systems) in 40 CFR Part 265. Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls, if applicable, are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste to be stored or treated, and corrosion protection so that it will not collapse, rupture or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. *See*, 329 IAC § 3.1-10-1 [40 CFR § 262.34(a)(ii); 40 CFR § 265.192(a)].

*"New tank system" or "new tank component"* is defined as a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after June 20, 1988. *See*, 329 IAC § 3.1-4-18 [40 CFR § 260.10].

At the time of the inspection, Mid-City Plating was storing hazardous waste on-site in a containment pit located under one of the zinc plating lines, which meets the definition of a *new tank system*. A written assessment, reviewed and certified by an independent, qualified, registered professional engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste had not been performed.

6. A generator must meet all of the requirements of Subpart J (tank systems) in 40 CFR Part 265 if the waste is placed in tanks. *See*, 329 IAC §§ 3.1-10-1 and 3.1-10-2 [40 CFR §§ 262.34(a)(1)(ii); 265.193; 265.194; and 265.195].

At the time of the inspection, Mid-City Plating was storing hazardous waste on-site in a containment pit located under one of the zinc plating lines, which meets the definition of a *new tank system*. This new tank system did not have: 1) secondary containment; 2) appropriate controls and practices to prevent spills and overflows from the containment pit; or 3) daily documented inspections of the new tank system pursuant to 40 CFR § 265.195.

7. A generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without obtaining a hazardous waste storage permit or achieving interim status, provided that the generator's waste is placed in tanks and the generator complies with the applicable requirements of Subpart J (tank systems) in 40 CFR Part 265. All new tanks



and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed or placed in use. *See*, 329 IAC §§ 3.1-10-1 and 3.1-10-2 [40 CFR §§ 262.34(a)(1)(ii) and 265.192(d)].

At the time of the inspection, Mid-City Plating was storing hazardous waste in a containment pit located underneath one of the zinc plating lines. Mid-City Plating had not performed tightness testing of this tank system or ancillary equipment.

8. A generator of hazardous waste must inspect, where present, at least once each operating day, the overspill/spill control equipment, the above ground portions of the tank system, data gathered from monitoring equipment and leak-detection equipment, and the construction materials and the area immediately surrounding the externally accessible portion of the tank system. The generator must document all inspections of the above items in the operating record of the facility. *See*, 329 IAC §§ 3.1-10-1 and 3.1-10-2 [40 CFR §§ 262.34(a)(1)(ii) and 265.195].

At the time of the inspection, Mid-City Plating did not have complete documentation available on-site showing that the hazardous waste storage tank system, including ancillary equipment, was inspected once per operating day.

9. A generator of hazardous waste must ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container of hazardous waste, and while being accumulated on-site, each container of hazardous waste must be labeled or marked clearly with the words, "Hazardous Waste." *See*, 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR § 262.34(a)(2) and (a)(3)].

At the time of the inspection, Mid-City Plating was storing an approximately one cubic yard container of F006 hazardous waste underneath the waste water treatment unit (WWTU) filter press, without an accumulation date and without the words, "Hazardous Waste," marked on the container.

At the time of the inspection, Mid-City Plating was storing one 20-cubic yard roll-off container of F006 hazardous waste outside in the hazardous waste storage area, without an accumulation date and without the words, "Hazardous Waste," marked on the container.

At the time of the inspection, Mid-City Plating was storing hazardous waste in a containment pit located under one of the zinc plating lines, which meets the definition of a *new tank system*, without an accumulation date and without the words, "Hazardous Waste," marked on the tank.

10. Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. *See*, 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(4) and 265.31].

At the time of the inspection, liquids from the plating operations, that had not either entered the WWTU yet, or had been placed into containers or tanks, were located on the floor throughout the facility. Mid-City Plating did not have a procedure in place to clean spills and did not have a procedure to either put liquids back into the plating operations or put them into the WWTU.

11. A generator of hazardous waste may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near the point of generation which is under the control of an operator of the process generating the waste, provided that the container holding hazardous waste must be marked with either the words, "Hazardous Waste," or with other words that identify the contents of the containers. *See*, 329 IAC §§ 3.1-7-1 and 3.1-9-1 [40 CFR § 262.34(c)(1)(ii)].

At the time of the inspection of the satellite accumulation area, one 55-gallon container of F008 hazardous waste was not located at or near the point of generation which is under the control of an operator of the process generating the waste and the container was not marked with either the words, "Hazardous Waste," or with other words that identify the contents of the containers.

12. A generator of hazardous waste must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. *See*, 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(1) and 265.174].

At the time of the inspection, weekly inspections of the hazardous waste storage area were not being conducted.

13. A generator of hazardous waste must successfully complete a program of classroom instruction or on-the-job training of facility personnel that teaches them to perform their duties in a way that ensures the facility's compliance. *See*, 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(4) and 265.16(a)(3), (b), (c), (d) and (e)].

At the time of the inspection, Mid-City Plating's training program: 1) did not include documentation that facility personnel successfully completed the program required within six months after the effective date of their employment or assignment to a facility, or to a new position at a facility, whichever is later; 2) did not include documentation that facility personnel took part in an annual review of the initial training required since 2003; 3) did not include job titles, job descriptions or a written description of the type and amount of both initial training and continuing training that will be given to each person

filling a position dealing with hazardous waste management; 4) did not document that the training or job experience required had been given to, and completed by, facility personnel; and 5) did not maintain training records of former employees for at least three years from the last date of employment.

14. A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, who accumulates hazardous waste for more than 90 days, is an operator of a storage facility and is required to obtain an Indiana hazardous waste storage permit. *See*, 329 IAC § 3.1-7-1 [40 CFR § 262.34(b)].

At the time of the inspection, Mid-City Plating was storing approximately 20 cubic yards of F006 hazardous waste, located outside in the hazardous waste storage area, for greater than 90 days, and had not applied for or obtained an Indiana hazardous waste storage permit.

15. A large quantity generator that accumulates hazardous waste on-site and does not meet the conditions for a permit exemption of 329 IAC § 3.1-7-1 and 40 CFR § 262.34 is an operator of a hazardous waste storage facility, and is required to obtain an Indiana hazardous waste storage permit. *See*, 329 IAC § 3.1-7-1 [40 CFR § 262.34(a)].

Upon failing to meet the conditions identified in item numbers 4 through 15 listed above, Mid-City Plating became an operator of a hazardous waste storage facility. Mid-City Plating has not applied for or received a hazardous waste storage permit nor does Mid-City Plating have interim status. Mid-City Plating's failure to apply for and obtain a hazardous waste storage permit violated the permitting requirements of 329 IAC §§ 3.1-13-1; 3.1-13-2(1), (2), (3) and (4); and 3.1-13-3 through 3.1-13-17 [40 CFR §§ 270.1(c) and 270.13].

At this time, EPA is not requiring Mid-City Plating to apply for an Indiana hazardous waste storage permit, provided that Mid-City Plating immediately complies with the conditions for an exemption set forth in the regulations identified above.

Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violations and requiring compliance immediately or within a specified time period.

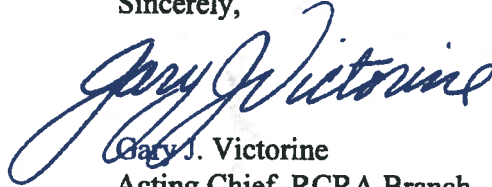
Although this letter is not such an order, we request that you submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to establish compliance with the above requirements.

You should submit your response to Jamie L. Paulin, U.S. Environmental Protection Agency, Region 5 (LR-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604.



If you have any questions regarding this letter, please contact Ms. Paulin, of my staff, at (312) 886-1771.

Sincerely,

A handwritten signature in blue ink, reading "Gary J. Victorine". The signature is fluid and cursive, with the first name "Gary" and last name "Victorine" clearly legible.

Gary J. Victorine  
Acting Chief, RCRA Branch  
Land and Chemicals Division

Enclosures

cc: Nancy Johnston, Indiana Department of Environmental Management